



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-602-810, A-351-850, A-403-805]

Silicon Metal from Australia, Brazil and Norway: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective [March 28, 2017]

FOR FURTHER INFORMATION CONTACT: Brian Smith at (202) 482-1766 (Australia); Robert James at (202) 482-0649 (Brazil); and Andrew Medley at (202) 482-4987 (Norway), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 8, 2017, the Department of Commerce (the Department) received antidumping duty (AD) petitions (the Petitions) concerning imports of silicon metal from Australia, Brazil, and Norway, filed in proper form on behalf of Globe Specialty Metals, Inc. (the petitioner).<sup>1</sup> The Petitions also included countervailing duty (CVD) petitions on silicon metal from Australia, Brazil, and Kazakhstan.<sup>2</sup> The petitioner is a domestic producer of silicon metal.<sup>3</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of silicon metal from Australia, Brazil, and Norway are being, or

---

<sup>1</sup> See Silicon Metal from Australia, Brazil, Kazakhstan, and Norway; Antidumping and Countervailing Duty Petition, dated March 8, 2017 (the Petitions).

<sup>2</sup> *Id.*

<sup>3</sup> See Volume I of the Petitions, at 1 and Exhibit I-1.

are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry, because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.<sup>4</sup>

#### Period of Investigations

Because the petitions were filed on March 8, 2017, the period of investigation (POI) for each investigation is, pursuant to 19 CFR 351.204(b)(1), January 1, 2016, through December 31, 2016.

#### Scope of the Investigations

The product covered by these investigations is silicon metal from Australia, Brazil, and Norway. For a full description of the scope of these investigations, *see* the “Scope of the Investigations,” at Appendix I of this notice.

#### Comments on Scope of the Investigations

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public

---

<sup>4</sup> *See* the “Determination of Industry Support for the Petitions” section below.

information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on April 17, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (also limited to public information), must be filed by 5:00 p.m. ET on April 27, 2017, which is 10 calendar days after the initial comments. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently believes that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments must be filed on the records of each of the concurrent AD and CVD investigations.

#### Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>5</sup> An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue,

---

<sup>5</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

#### Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of silicon metal to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics; and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe silicon metal, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on April 17, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal

comments, must be filed by 5:00 p.m. ET on April 27, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Australia, Brazil, and Norway less-than-fair-value investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>6</sup> they do so for

---

<sup>6</sup> See section 771(10) of the Act.

different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>7</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that silicon metal, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>8</sup>

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. The petitioner provided its own production of the domestic like product in 2016, as well as estimated

---

<sup>7</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

<sup>8</sup> For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Silicon Metal from Australia (Australia AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Australia, Brazil, Kazakhstan, and Norway (Attachment II); Antidumping Duty Investigation Initiation Checklist: Silicon Metal from Brazil (Brazil AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Silicon Metal from Norway (Norway AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

2016 production data of the domestic like product by the entire U.S. industry.<sup>9</sup> The petitioner also provided a letter from the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), stating that the USW represents the workers at the petitioner's Alloy, WV and Niagara Falls, NY silicon metal plants and it supports the Petitions.<sup>10</sup> In addition, the petitioner provided a letter of support for the Petitions from the Industrial Division of the Communications Workers of America (IEU-CWA), stating that the IEU-CWA represents the workers at the petitioner's Selma, AL plant and it supports the Petitions.<sup>11</sup> To establish industry support, the petitioner compared its production to the total 2016 production of the domestic like product for the entire domestic industry.<sup>12</sup> We relied on the data the petitioner provided for purposes of measuring industry support.<sup>13</sup>

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioner has established industry support.<sup>14</sup> First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>15</sup> Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the

---

<sup>9</sup> See Volume I of the Petitions, at 1, 3-4 and Exhibits I-1 and I-2.

<sup>10</sup> See Volume I of the Petitions, at 4 and Exhibit I-5.

<sup>11</sup> *Id.*, at 4 and Exhibit I-6.

<sup>12</sup> *Id.*, at 3-4 and Exhibit I-2.

<sup>13</sup> *Id.* For further discussion, see Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

<sup>14</sup> See Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

<sup>15</sup> See section 732(c)(4)(D) of the Act; see also Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

Petitions account for at least 25 percent of the total production of the domestic like product.<sup>16</sup>

Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>17</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that the Department initiate.<sup>18</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>19</sup>

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declines in production, production capacity, capacity utilization, and U.S. shipments; increase in inventories; declines in average number of workers, hours worked, and wages paid; and declines

---

<sup>16</sup> See Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See Volume I of the Petitions, at 38-39 and Exhibit I-45.

in financial performance.<sup>20</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>21</sup>

#### Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of silicon metal from Australia, Brazil, and Norway. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

#### Export Price

For Brazil, the petitioner based export price (EP) on transaction-specific average unit values (AUVs) for shipments of silicon metal from Brazil entered under the relevant Harmonized Tariff Schedule of the United States (HTSUS) subheading for three entries during one month of the POI into three specific ports.<sup>22</sup> The petitioner linked port arrival data from an independent source to U.S. port-specific import statistics obtained from the ITC's Dataweb.<sup>23</sup> The petitioner linked imports of silicon metal entered under the relevant HTSUS subheading to shipments from producers in Brazil to ensure the Dataweb statistics were specific to subject merchandise.<sup>24</sup>

---

<sup>20</sup> See Volume I of the Petitions, at 25-53 and Exhibits I-1, I-2, I-11 – I-16, I-20, I-21, and I-30 – I-60; *see also* Silicon Metal from Australia, Brazil, Kazakhstan, and Norway; Antidumping and Countervailing Duty Petition: Revised Exhibit I-46, dated March 14, 2017.

<sup>21</sup> See Australia AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Australia, Brazil, Kazakhstan, and Norway (Attachment III); *see also* Brazil AD Initiation Checklist, at Attachment III; and Norway AD Initiation Checklist, at Attachment III.

<sup>22</sup> See Brazil AD Initiation Checklist.

<sup>23</sup> *Id.*; *see also* Volume IV of the Petitions at BR-AD 2C.

<sup>24</sup> See Brazil AD Initiation Checklist.

Because the AUVs are based on the reported customs values, which reflect FOB foreign port prices, the petitioner made an adjustment for foreign inland freight from the production facility to the port of export.<sup>25</sup> The petitioner made no other adjustments to EP.

#### Constructed Export Price

For Australia and Norway, the petitioner had reason to believe that sales are made through U.S. affiliates. Therefore, the petitioner based constructed export price (CEP) on actual sales prices for silicon metal produced in, and exported from, those countries.<sup>26</sup> The petitioner made deductions from U.S. price for movement expenses consistent with the delivery terms.<sup>27</sup> The petitioner also deducted from U.S. price operating expenses incurred by the U.S. affiliate.<sup>28</sup>

#### Normal Value Based on Home Market Prices

For Australia, Brazil, and Norway, the petitioner provided home market price information based on sales, or offers for sale, of merchandise identical or similar to the product being imported into the United States during the POI.<sup>29</sup> As the prices obtained for Brazil were on an ex-factory basis, the petitioner made no adjustment for movement expenses.<sup>30</sup> For Australia and Norway, the petitioner made certain adjustments to the prices, including deductions for inland freight charges (where applicable).<sup>31</sup> The petitioner made no other adjustments to home market prices.

---

<sup>25</sup> *Id.*; see also Volume IV of the Petitions at 4-5, and Exhibit BR-AD 2A.

<sup>26</sup> See Australia AD Initiation Checklist and Norway AD Initiation Checklist.

<sup>27</sup> *Id.*

<sup>28</sup> See Volume II of the Petitions at 1-3 and Exhibit AU-AD 2A and Volume VII of the Petitions at 1-4 and Exhibit NO-AD 2A; and Australia AD Initiation Checklist and Norway AD Initiation Checklist.

<sup>29</sup> See Volume II of the Petitions, at 3-5 and Exhibit AU-AD 3A; Volume IV of the Petitions at 5 and Exhibit BR-AD 3A; Volume VII of the Petitions at 4-5 and Exhibit NO-AD 3A; see also Australia AD Initiation Checklist, Brazil AD Initiation Checklist, and Norway AD Initiation Checklist.

<sup>30</sup> See Brazil AD Initiation Checklist.

<sup>31</sup> See Australia AD Initiation Checklist and Norway AD Initiation Checklist.

For Australia and Brazil, the petitioner provided information indicating that sales of silicon metal in the home market were made at prices below the cost of production (COP) and, as a result, also calculated NV based on constructed value (CV).<sup>32</sup> For further discussion of COP and NV based on CV, see below.<sup>33</sup>

#### Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; and packing expenses.

For Australia, the petitioner relied on the 2015 financial statements of Australian producer Simcoa Operations Pty Ltd. (Simcoa) to calculate the COP.<sup>34</sup> The petitioner adjusted Simcoa's 2015 COP data to the POI using Australian producer price index information obtained from *International Financial Statistics*.<sup>35</sup>

For Brazil, the petitioner calculated COM based on its own experience during the POI, adjusted for known differences based on information available to the petitioner.<sup>36</sup> The petitioner valued material inputs using publicly available data for the prices of these inputs, where possible. The petitioner used its own cost for one material input, as it was unable to find a publicly-available price for this input. The petitioner valued labor and energy inputs for silicon metal

---

<sup>32</sup> Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made. See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015). See also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations. See *Applicability Notice*, 80 FR at 46794-95.

<sup>33</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

<sup>34</sup> See Australia AD Initiation Checklist.

<sup>35</sup> *Id.*

<sup>36</sup> See Brazil AD Initiation Checklist.

using publicly available data multiplied by the product-specific usage rates.<sup>37</sup> The petitioner relied on the 2015 financial statements of Brazilian silicon metal producer Rima Industrial, S.A. (Rima) to calculate SG&A and depreciation.<sup>38</sup> Because Rima's financial statements do not contain any data on other fixed overhead costs or variable overhead costs, the petitioner valued these overhead items using its own fixed and variable manufacturing overhead costs to produce silicon metal during the POI.<sup>39</sup>

For Australia and Brazil, because certain home market prices fell below COP in the petitioner's allegation, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioner also calculated NVs based on CV.<sup>40</sup> Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. The petitioner calculated CV using the same COP described above, adding an amount for profit.<sup>41</sup> For Australia, the petitioner based profit on Simcoa's above-cost home market sales during the POI. For Brazil, the petitioner calculated the profit rate based on Rima's financial statements. These rates were applied to the corresponding total COM, SG&A, and financial expenses calculated above to derive CV.<sup>42</sup>

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of silicon metal from Australia, Brazil, and Norway are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP or CEP to NV, in accordance with sections 772 and 773(a) of the Act, the estimated dumping margins for silicon metal are as

---

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Australia AD Initiation Checklist and Brazil AD Initiation Checklist.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

follows: 28.58 to 52.81 percent for Australia;<sup>43</sup> 15.41 to 28.24 percent for Brazil;<sup>44</sup> and 32.25 and 45.66 percent for Norway.<sup>45</sup> Based on comparisons of EP or CEP to CV in accordance with sections 772 and 773(e) of the Act, the estimated dumping margins are as follows: 42.33 and 45.77 percent for Australia,<sup>46</sup> and 121.79 to 134.92 percent for Brazil.<sup>47</sup>

#### Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the AD Petitions, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of silicon metal from Australia, Brazil, and Norway are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

#### Respondent Selection

Based on information from independent sources, the petitioner identified one company in Australia, five companies in Brazil, and two companies in Norway, as producers/exporters of silicon metal.<sup>48</sup> With respect to Brazil, following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies is large, the Department intends to review U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate HTSUS numbers listed with the “Scope of the Investigations,” in Appendix I, below; and if it determines that it cannot individually examine each company based upon the Department’s resources, then the Department will select

---

<sup>43</sup> See Volume II of the Petitions, at 7 and Exhibit AU-AD1, and Australia AD Initiation Checklist.

<sup>44</sup> See Volume IV of the Petitions, at 8-9 and Exhibit BR-AD1, and Brazil AD Initiation Checklist.

<sup>45</sup> See Volume VII of the Petitions, at 5 and Exhibit NO-AD1, and Norway AD Initiation Checklist.

<sup>46</sup> See Volume II of the Petitions, at 7 and Exhibit AU-AD1, and Australia AD Initiation Checklist.

<sup>47</sup> See Volume IV of the Petitions, at 8-9 and Exhibit BR-AD1, and Brazil AD Initiation Checklist.

<sup>48</sup> See Volume I of the Petitions, at 15-21.

respondents based on that data. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of the investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from CBP to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only one company as a producer/exporter of silicon metal in Australia: Simcoa, and two companies in Norway: Elkem AS and Wacker Chemicals Norway AS.<sup>49</sup> We currently know of no additional producers/exporters of merchandise under consideration from these countries and the petitioner provided information from independent sources as support.<sup>50</sup> Accordingly, the Department intends to examine all known producers/exporters in the investigations for Australia and Norway (*i.e.*, the companies cited above for each respective investigation). Parties wishing to comment on respondent selection for Australia and Norway must do so within five days of the publication of this notice in the *Federal Register*.

Comments for the above-referenced investigations must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by 5:00 p.m. ET by the dates noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

#### Distribution of Copies of the Petitions

---

<sup>49</sup> *Id.*

<sup>50</sup> See Volume I of the Petitions at Exhibits I-17 and I-20.

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Governments of Australia, Brazil, and Norway via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

#### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of silicon metal from Australia, Brazil, and/or Norway are materially injuring or threatening material injury to a U.S. industry.<sup>51</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country;<sup>52</sup> otherwise, these investigations will proceed according to statutory and regulatory time limits.

#### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut,

---

<sup>51</sup> See section 733(a) of the Act.

<sup>52</sup> *Id.*

clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these investigations.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>53</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>54</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

---

<sup>53</sup> See section 782(b) of the Act.

<sup>54</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR  
351.203(c).

Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

Dated: March 28, 2017.

## **Appendix I**

### **Scope of the Investigations**

The scope of these investigations covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

[FR Doc. 2017-06621 Filed: 4/3/2017 8:45 am; Publication Date: 4/4/2017]